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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,685	03/05/2002	Alfred Thomas	2100/24	8496

7590

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/090,685

Applicant(s)

THOMAS ET AL.

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-48 and 50-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-48, 50-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 25, 27,28,29-46, 50-51 rejected under 35 U.S.C. 102(b) as being anticipated by Walker (6,174,235).

Walker teaches a display (16), an operating system having a processor (12) effecting a game of chance (col.4, lines 18-21), a memory (14), an input device (18), a payout device (22), displaying a plurality of game element locations (112), a limited number of game locations selected by a player (abstract lines 7-9), randomly determining elements at selected locations (abstract lines 11-16), determining payouts (col.6, lines 26-28). Walker teaches game machine as slot machine (74), award based on aggregate number of matching indicia (col.8, lines 50-57), game locations in rows and columns (Fig.5), game being a slot machine kind (col.5, lines 55-65).

2. Claims 25,27,28,29-46,50-51 rejected under 35 U.S.C. 102(b) as being anticipated by Feola (6,149,156).

Feola teaches an operating system (col.5, lines 35-37), displaying selectable locations (Fig.1), selecting a limited number of locations (col.5, lines 30-32), random assignment of game elements on selected locations (col.6, lines 16-21), matching and determining payouts according to number of matching (col.6, lines 22-25).

Claim Rejections - 35 USC § 103

3. Claims 26,47-48,52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker.

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Walker teaches all limitations of these claims except that it does not expressly indicate reels at each location for elements.

While some people like to play computer games others like to play conventional reel type games. In order to make the game available for people who like to play conventional type games, it would have been obvious to use reels instead of electronic screens. One of ordinary skill in art at the time the invention was made would have suggested selecting locations in a conventional environment with reels as in slot machine.

Response to Arguments

4. Applicant's arguments filed 10/20/03 have been fully considered but they are not persuasive.

On page 4 of paper # 6 applicant argues that Walker does not disclose or suggest selecting "one or more (to a maximum of ten) locations" for a game play condition. Examiner draws the attention towards the abstract lines 7-9 clearly disclosing a selection of "one or more locations". With regards to the selecting "to a maximum of ten" locations, the examiner notes that the applicant is not claiming any such limitation in the claims.

Applicant further admits that Walker discloses selecting only three locations. Selecting three locations is interpreted as "limiting selecting of locations to less than all locations". Applicant further argues that Walker immediately reveals the element upon selection and applicant's game is selecting locations for a game condition. In claims 25,29 and

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39 the limitation "selecting for a game condition" is not being interpreted as "revealing after all selections are made". If the applicant intends to claim revealing locations after selecting all locations then it should be clearly claimed. "Selecting for a game condition" is broadly and reasonably interpreted as "electing locations for an outcome". Walker teaches "selecting locations for an outcome" (see abstract lines 18-20).

Applicant's arguments pertaining to independent claim 50 are not persuasive. Walker clearly teaches selecting a subset of a plurality of elements (62-72). Walker also teaches a random device such as a conventional slot machine for determining outcome. It is well known in the art that each reel in a slot machine has a stop position. It is important to note that the applicant is not selecting reel locations but only elements in this claim.

On page 6 of paper # 6 applicant argues that Feola does not disclose game element indicia being randomly assigned for each location from a set of game different indicia.

Arguments are not persuasive. Feola clearly teaches 52 locations (10), selecting a limited number of locations and randomly selecting from a set of 52 indicia from a deck of cards (5:39-60).

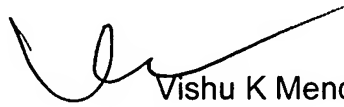
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Vishu K Mendiratta
Examiner
Art Unit 3722

VKM
December 31, 2003